

U.S. Patent Application Serial No. **09/938,734**  
Amendment filed October 5, 2004  
Reply to OA dated July 7, 2004

**REMARKS:**

Claims 1, 4-10, and 13-17 are currently being considered, of which claims 1, 4-9, and 13-17 have been amended. Claims 2, 3, 11, and 12 have been canceled without prejudice or disclaimer of their subject matter. No new claims have been added. It is respectfully believed that no new matter has been introduced.

Before turning to the cited references, a brief review of the present invention is in order. The present invention relates to transferring packets to be stored in one output port that is judged in a monitoring step as in congestion, to other output port that is judged in the monitoring step as not in congestion; wherein the transferring step comprises selecting the other output port in random from output ports judged in the monitoring step as not in congestion so as to provide reflection routes with transmission delay times within a predetermined range. Amendments to claims are supported by the application as originally filed (see, for example, claims 1-17; p. 4, line 3 to p. 6, line 16; p. 10, line 2 to p. 13, line 11).

**Claims 1-17:**

Claims 1, 5, and 17 stand rejected under 35 USC 102(b) as anticipated by USP 5,799,015 (**Bennett**).

Claims 2-4 and 6-16 stand rejected under 35 USC 103(a) as obvious over **Bennett**.

U.S. Patent Application Serial No. 09/938,734  
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Reply to OA dated July 7, 2004

Applicants respectfully traverse the above rejections.

**Bennett** does not describe, teach, or suggest features set forth in claims 1, 4, 9, 13, and 17, as amended, relating to transmission delay times within a predetermined range, in combination with the other claimed features.

Regarding claims 3 and 12, as originally filed, the Examiner concedes that **Bennett** is deficient. In particular, the Examiner acknowledges that “**Bennett** does not disclose, wherein said transferring step comprises selecting said other output port in random from output ports judged in said monitoring step as not in congestion so as to provide reflection routes with transmission delay times within a predetermined range.”

The Examiner attempts to remedy the acknowledged deficiencies of **Bennett** by suggesting “However, it would have been obvious to one of ordinary skill in the art at the time of invention to select ports at random so that a random Poisson distribution of packets would result.”

The Examiner’s suggestion regarding the random Poisson distribution does not remedy the deficiencies of **Bennett**, because such a distribution does not address all the deficiencies of **Bennett**. In particular, in the Office Action mailed July 7, 2004, the Examiner has neglected to indicate how

U.S. Patent Application Serial No. 09/938,734

Amendment filed October 5, 2004

Reply to OA dated July 7, 2004

any cited art or knowledge teaches “transmission delay times within a predetermined range” as set forth in claims 3 and 12, as originally filed. The Examiner does not explain how any cited art or knowledge could teach or suggest the “transmission delay times within a predetermined range” as set forth in claims 3 and 12, as originally filed.

Furthermore, the Examiner does not even mention any specific details regarding how the cited art or knowledge could teach “transmission delay times” or the “predetermined range” as set forth in claims 3 and 12, as originally filed.

Features of claims 3 and 12, as originally filed, relating to transmission delay times and predetermined range, have been incorporated into claims 1 and 9, as amended.

Thus, Applicants respectfully submit that the rejections of independent claims 1 and 9, and all claims depending therefrom, should be withdrawn.

Regarding claims 4 and 13, as originally filed, the Examiner concedes that **Bennett** is deficient. In particular, the Examiner acknowledges that “**Bennett** does not disclose, wherein said transferring step comprises sequentially selecting said other output port from output ports judged in said monitoring step as not in congestion so as to provide reflection routes with transmission delay times within a predetermined range.”

U.S. Patent Application Serial No. 09/938,734  
Amendment filed October 5, 2004  
Reply to OA dated July 7, 2004

The Examiner attempts to remedy the acknowledged deficiencies of **Bennett** by suggesting “However, it would have been obvious to one of ordinary skill in the art at the time of invention to select ports sequentially as this is the most ordered way to traverse a list of ports in a database.”

The Examiner’s suggestion regarding a way to traverse a list of ports does not remedy the deficiencies of **Bennett**, because such a traversing does not address all the deficiencies of **Bennett**. In particular, in the Office Action mailed July 7, 2004, the Examiner has neglected to indicate how any cited art or knowledge teaches “transmission delay times within a predetermined range” as set forth in claims 4 and 13, as originally filed. The Examiner does not explain how any cited art or knowledge could teach or suggest the “transmission delay times within a predetermined range” as set forth in claims 4 and 13, as originally filed.

Furthermore, the Examiner does not even mention any specific details regarding how the cited art or knowledge could teach “transmission delay times” or the predetermined range” as set forth in claims 4 and 13, as originally filed.

Claims 4 and 13, as amended, set forth features relating to transmission delay times and predetermined range.

U.S. Patent Application Serial No. 09/938,734  
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Thus, Applicants respectfully submit that the rejection of claims 4 and 13 should be withdrawn. Additionally, Applicants respectfully submit that the rejections of all claims depending from claims 4 and 13, as amended, should be withdrawn.

**Bennett** fails to describe, teach, or suggest the features set forth in claim 17, as amended, relating to “transmission delay times within a predetermined range” in combination with the other claimed features.

Claim 17, as amended, sets forth means for selecting said other output port in random from output ports judged as not in congestion so as to provide reflection routes with transmission delay times within a predetermined range.

In view of the foregoing remarks and amendments regarding transmission delay times and predetermined ranges, Applicants respectfully submit that the rejection of claim 17 should be withdrawn.

In view of the aforementioned amendments and accompanying remarks, claims 1, 4-10, and 13-17, as amended, are in condition for allowance, which action, at an early date, is requested.

U.S. Patent Application Serial No. 09/938,734  
Amendment filed October 5, 2004  
Reply to OA dated July 7, 2004

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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